

RRC STAFF OPINION

PLEASE NOTE: THIS COMMUNICATION IS EITHER 1) ONLY THE RECOMMENDATION OF AN RRC STAFF ATTORNEY AS TO ACTION THAT THE ATTORNEY BELIEVES THE COMMISSION SHOULD TAKE ON THE CITED RULE AT ITS NEXT MEETING, OR 2) AN OPINION OF THAT ATTORNEY AS TO SOME MATTER CONCERNING THAT RULE. THE AGENCY AND MEMBERS OF THE PUBLIC ARE INVITED TO SUBMIT THEIR OWN COMMENTS AND RECOMMENDATIONS (ACCORDING TO RRC RULES) TO THE COMMISSION.

AGENCY: North Carolina Criminal Justice Education and Training Standards Commission

RULE CITATION: 12 NCAC 09F .0103, .0104, and .0105

RECOMMENDATION DATE: May 28, 2024

RECOMMENDED ACTION: Return the rules to the agency.

COMMENT:

AT ITS FEBRUARY 22, 2024 MEETING, THE RRC OBJECTED TO THE ABOVE CAPTIONED RULES CONCERNING CONCEALED CARRY PERMITS FINDING THAT THE AGENCY DID NOT HAVE AUTHORITY TO ADOPT THE RULES. PURSUANT TO G.S. 150B-21.12, THE AGENCY HAD UNTIL MAY 13, 2024 TO RESPOND. THE AGENCY RESPONDED ON MAY 11, 2024¹.

IT IS LETTER, THE AGENCY RESPONDED, "PURSUANT TO N.C. GEN. STAT. §150B-21.12(A)(2), THIS LETTER SERVES AS A WRITTEN RESPONSE TO THE COMMISSION INDICATING THAT CJETS HAS DECIDED NOT TO CHANGE RULES 12 NCAC 09F .0103, .0104, AND .0105."

G.S. 150B-21.12(D) AS REVISED BY S.L. 2023-134 CLEARLY STATES THAT THE RULES REVIEW COMMISSION "SHALL RETURN THE RULE TO THE AGENCY" ONCE THE AGENCY SUBMITS A WRITTEN RESPONSE INDICATING THAT THE AGENCY HAS DECIDED NOT TO CHANGE THE RULE.

STAFF RECOMMENDS THE COMMISSION RETURN THE RULES PURSUANT TO G.S. 150B-21.12(D).

¹ WHILE THE RESPONSE LETTER IS DATED MAY 10, 2024, IT WAS SENT VIA EMAIL ON MAY 11, 2024.

SECTION 21.2.(h) G.S. 150B-21.12 reads as rewritten:

"§ 150B-21.12. Procedure when Commission objects to a permanent rule.

(a) Action. – When the Commission objects to a permanent rule, it must send the agency that adopted the rule a written statement of the objection and the reason for the objection. The agency that adopted the rule must take one of the following actions:

- (1) Change the rule to satisfy the Commission's objection and submit the revised rule to the Commission.
- (2) Submit a written response to the Commission indicating that the agency has decided not to change the rule.

(b) Time Limit. – An agency that is not a board or commission must take one of the actions listed in subsection (a) of this section within 30 days after receiving the Commission's statement of objection. A board or commission must take one of these actions within 30 days after receiving the Commission's statement of objection or within 10 days after the board or commission's next regularly scheduled meeting, whichever comes later.

(c) Changes. – When an agency changes a rule in response to an objection by the Commission, the Commission must determine whether the change satisfies the Commission's objection. If it does, the Commission must approve the rule. If it does not, the Commission must send the agency a written statement of the Commission's continued objection and the reason for the continued objection. The Commission must also determine whether the change is substantial. In making this determination, the Commission shall use the standards set forth in G.S. 150B-21.2(g). If the change is substantial, the revised rule shall be published and reviewed in accordance with the procedure set forth in ~~G.S. 150B-21.1(a3) and (b)~~ G.S. 150B-21.2.

(d) Return of Rule. – A rule to which the Commission has objected remains under review by the Commission until the agency that adopted the rule ~~decides not to satisfy~~ satisfies the Commission's objection and ~~makes a written request to the Commission to return the rule to the agency. When the Commission returns a rule to which it has objected, it must or~~ submits a written response to the Commission indicating that the agency has decided not to change the rule. If the agency does not submit a revised rule to satisfy the Commission's objection within the time limit established in subsection (b) of this section, or submits a written response indicating that the agency has decided not to change the rule within the time limit established by subsection (b) of this section, the Commission shall return the rule to the agency and notify the Codifier of Rules of its action. If the rule that is returned would have increased or decreased expenditures or revenues of a unit of local government, the Commission must also notify the Governor of its action and must send a copy of the record of the Commission's review of the rule to the Governor. The record of review consists of the rule, the Commission's letter of objection to the rule, the agency's written response to the Commission's letter, and any other relevant documents before the Commission when it decided to object to the rule.